

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-AT-317
)	
Piedmont Radio Co.)	NAL/Acct. No.200332480006
Licensee of AM Radio Station WPID, Piedmont,)	
Alabama, and Owner of Unregistered Antenna)	FRN 0007-7794-32
Structure At or Near Coordinates 33° 55' 45" North)	
Latitude by 085° 35' 42" West Longitude, in		
Piedmont, Alabama.		
Piedmont, Alabama		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 15, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL"), we find Piedmont Radio Co., licensee of radio station WPID, Piedmont, Alabama, and owner of an unregistered antenna structure near Piedmont, Alabama, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Sections 73.1125(a) and 17.4(a) of the Commission's Rules ("Rules").¹ Specifically, we find Piedmont Radio Co. apparently liable for not maintaining a presence at its main studio during normal business hours and failing to register its antenna structure.

II. BACKGROUND

2. On June 26, 2002, at 1:45 P.M. local time, and again at 3:50 P.M. local time, an agent of the Commission's Atlanta Field Office ("Atlanta Office") attempted an inspection of radio station WPID's main studio located at the transmitter site in Piedmont, Alabama. The main studio office doors were locked and no lights were visible. There were no office hours denoted on the doors and no indication of why the office was closed. The agent called the listed telephone numbers for WPID and received no answer.

3. On June 26, 2002, the agent inspected the antenna structure of WPID(AM) located at or near geographical coordinates 33° 55' 45" North Latitude by 085° 35' 42" West Longitude, in Piedmont, Alabama.² The structure was over 200 feet tall and was painted and lighted. The agent checked the FCC's Antenna Structure Registration records and determined that the antenna structure was not registered with the FCC.

4. On July 16, 2002, at 9:40 A.M. and 10:55 A.M. local time, the agent again telephoned the

¹ 47 C.F.R. § 73.1125(a) and 17.4(a).

² Piedmont Radio Co. is licensee of radio station WPID as well as owner of the antenna structure used by WPID.

station and received no answer. On August 21, 2002, at 1:23 P.M. and 3:30 P.M. local time, the agent again telephoned the station and received no answer.

5. On August 26, 2002, the agent reached the owner of WPID by telephone who verified that the antenna structure of WPID is owned by the licensee, Piedmont Radio Co., and that the structure was not registered with the Commission. The station license for WPID requires that the antenna structure be painted and lighted since it is over 200 feet tall. The owner also verified that the studio of WPID is not staffed during normal business hours.

III. DISCUSSION

6. Section 73.1125(a) requires the licensee of a broadcast station to maintain a main studio at one of the following locations: (1) within the station's community of license; (2) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) within twenty-five miles from the reference coordinates of the center of its community of license. In adopting the main studio rules, the Commission explicitly informed permittees and licensees that compliance with the main studio rules required maintenance of a meaningful staff and management presence,³ stating:

A station must maintain a main studio which has the capability adequately to meet its function, as discussed above, of serving the needs and interests of the residents of the station's community of license. To fulfill this function, a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence. Maintenance of production and transmission capability will allow broadcasters to continue, at their option, and as the marketplace demands, to produce local programs at the studio. A meaningful management and staff presence will help expose stations to community activities, help them identify community needs and interests and thereby meet their community service requirements.⁴

Subsequently, in its decision in *Jones Eastern of the Outer Banks, Inc.*,⁵ the Commission further clarified the concept of a meaningful management and staff presence. The Commission specified that, at a minimum, a main studio must maintain full-time managerial and full-time staff personnel.⁶ The Commission also stated that licensees need not have the same staff person and manager at the studio, as long as there was management and staff presence there during normal business hours.⁷ With respect to management personnel, the Commission further clarified that they need not be "chained to their desks" but that they would be required to report to work at the main studio on a daily basis, spend a substantial amount of time

³ *Main Studio and Program Origination Rules*, 3 FCC Rcd 5024 (1988); 53 FR 32899 (August 29, 1988).

⁴ *Id.* at 5026 (footnotes omitted).

⁵ 6 FCC Rcd 3615 (1991), *clarified*, 7 FCC Rcd 6800 (1992).

⁶ *Id.*, 6 FCC Rcd at 3616.

⁷ *Id.* at n. 2.

there, and use the main studio as their “home base.”⁸ On June 26, 2002, Piedmont Radio Co. did not maintain a presence at the main studio of WPID(AM) during normal business hours. The main studio was completely unattended on June 26, 2002, at 1:45 P.M. and 3:50 P.M local time. On July 16 and August 21, 2002, there was no answer in response to repeated telephone calls made during normal business hours to the listed telephone number for WPID(AM)’s main studio. Piedmont admitted that the WPID(AM) main studio was not staffed.

7. Section 17.4(a) of the Rules requires the owner of an antenna structure that required notice to the Federal Aviation Administration (“FAA”) to register the antenna structure with the Commission. Piedmont Radio Co.’s antenna structure required FAA notification because it exceeded 200 feet in height.⁹ Yet Piedmont Radio Co. failed to register the structure.

8. Based on the evidence before us, we find Piedmont Radio Co. willfully¹⁰ and repeatedly¹¹ violated Sections 73.1125(a) and 17.4(a) of the Rules by failing to maintain a presence at the main studio of WPID(AM) during normal business hours and failing to register its antenna structure.

9. Pursuant to Section 1.80(b)(4) of the Rules,¹² the base forfeiture amount for violation of main studio rules is \$7,000 and failing to register the antenna structure (failure to file required forms or information) is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.¹³ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,¹⁴ and Sections 0.111, 0.311 and 1.80 of the Rules,¹⁵ Piedmont Radio Co. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Sections 73.1125(a) and 17.4(a) of the Rules by failing to maintain a presence at the main studio of WPID(AM) during normal business hours and failing to register its antenna structure.

⁸ *Id.*, 7 FCC Rcd at 6802.

⁹ See 47 C.F.R. § 17.7(a).

¹⁰ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

¹¹ The term “repeated” means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

¹² 47 C.F.R. § 1.80(b)(4).

¹³ 47 U.S.C. § 503(b)(2)(D).

¹⁴ 47 U.S.C. § 503(b).

¹⁵ 47 C.F.R. §§ 0.111, 0.311, 1.80.

11. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Piedmont Radio Co. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁶

13. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

15. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this *NAL*, either in your response to the *NAL* or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

16. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Piedmont Radio Co., P.O. Box 227, Piedmont, Alabama 36272.

¹⁶ See 47 C.F.R. § 1.1914.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

Attachment